



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Mainstream Engineering Corporation

File: B-251444

Date: April 8, 1993

Jared H. Whitcomb for the protester, Richard Couch, Esq., Department of the Army, for the agency. David Ashen, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that contracting agency improperly included protester's proposal in the competitive range, resulting in unwarranted additional expense and effort, is denied where agency in fact found the proposal to have technical merit, and advised protester several times during negotiations that failure to correct informational deficiencies would preclude any chance for award.

DECISION

Mainstream Engineering Corporation protests the inclusion of its proposal in the competitive range under request for proposals (RFP) No. DAAE07-92-R-R002, issued by the Department of the Army for the development of a modernized heater for tracked combat vehicles. Mainstream alleges that the Army improperly included its proposal in the competitive range, and requests reimbursement of its resulting additional proposal costs.

We deny the protest.

The solicitation contemplated the award of up to three cost-plus-fixed-fee contracts to develop prototype modernized heaters for tracked combat vehicles, such as the M1 Main Battle Tank and the M2/M3 Bradley Fighting Vehicle. The solicitation provided for award to the offerors whose proposals were determined to offer the best value to the government based upon an evaluation, technical, performance capability and cost factors. The RFP stated that the technical factor would be twice as important in the evaluation as performance capability, which would be more important than cost.

The Army received seven proposals; one offeror subsequently withdrew its proposal, and the remaining six, including Mainstream's, were included in the competitive range. Mainstream's proposal received the lowest technical score among competitive range firms; was found to have an inadequate engineering design and moderate performance risk; and was only the fourth lowest in evaluated cost. However, the proposal also was evaluated as good to superior with respect to previously demonstrated technical performance, responsiveness and cost performance. The proposal was included in the competitive range due to these strengths and the fact that the weaknesses in the proposal resulted largely from Mainstream's failure to provide sufficient information and discussion supporting its technical proposal. The contracting officer concluded that such informational deficiencies, which were also present in the other proposals to a lesser degree, could be resolved through discussions and that Mainstream therefore did not lack a reasonable chance for award.

At the conclusion of the ensuing written and oral discussions, the Army requested the submission of best and final offers (BAFO). Based upon its evaluation of proposals, the agency awarded contracts to three of the offerors, but not to Mainstream. The agency determined that Mainstream had failed to correct in its BAFO the informational deficiencies found in its initial proposal. As a result, its evaluation score under the technical factor remained the lowest and its proposal was still found to be inadequate with respect to engineering design. Upon learning of the awards and being debriefed by the agency, Mainstream filed this protest with our Office.

Mainstream does not challenge the award decision. Rather, the protester believes it was improperly included in the competitive range. Noting that its proposal was based on a new technical approach of including a turbine-powered generator in the heater, Mainstream acknowledges that it had "only a conceptual design." Mainstream alleges that the Army thus never considered it "as a viable contender" for the award and that its inclusion in the competitive range served only to unnecessarily increase its proposal costs. Mainstream asks that it be reimbursed those costs.

The competitive range consists of all proposals that have a reasonable chance of being selected for award, that is, those proposals which are technically acceptable as submitted or which are reasonably susceptible of being made acceptable through discussions. Kaiserslautern Maintenance Group, B-240067, Oct. 12, 1990, 90-2 CPD ¶ 288. Federal Acquisition Regulation § 15.609(a) provides that if doubt exists as to whether a proposal is in the competitive range, the proposal should be included. As a general rule, an

agency should endeavor to broaden the competitive range since this will maximize the competition and provide fairness to the various offerors. Avondale Tech. Servs., Inc., B-243330, July 18, 1991, 91-2 CPD ¶ 72.

We find nothing improper in the agency's decision to include Mainstream in the competitive range. As indicated, Mainstream's proposal was deemed acceptable and was rated good to superior in three areas--demonstrated technical performance, responsiveness and cost performance--while the perceived technical approach deficiencies were primarily informational rather than inherent in the approach. In other words, the proposal had several strengths and contained nothing that precluded a reasonable determination that Mainstream had a legitimate chance at the award--even if not the best chance among competitive range offerors--if the firm was able to address the agency's concerns during discussions.


Of course, retaining Mainstream's proposal in the competitive range with its perceived deficiencies obligated the Army to afford Mainstream the opportunity to correct those deficiencies through meaningful discussions. The Army clearly satisfied this obligation; it clearly advised Mainstream of the perceived weaknesses in its proposal and of what it must do to ensure itself a reasonable chance for award. Specifically, in its written request for additional information, the Army advised Mainstream that "[m]any significant areas of your proposal provide little or no specific information demonstrating exactly how Mainstream Engineering intends to meet the Government's requirements." The agency further advised Mainstream of the specific areas with respect to which its proposal was "unclear-needs clarification," "incomplete-lacks information requested in the RFP," or was "unsupported-lacks specifics." The agency specifically cautioned Mainstream that its proposal of a turbine-powered generator would not benefit the firm in the evaluation. The Army restated the solicitation warning that "[p]roposals which merely offer to perform work in accordance with the RFP, or which fail to present more than a statement indicating their capability of compliance with the technical requirements without elaboration, shall be deemed unacceptable." The agency concluded that "[i]t is essential that your firm clearly identify the specific technical approaches you propose to use in order to achieve the required levels of performance."

In addition, in the Negotiation Memorandum furnished to Mainstream prior to oral discussions, the Army reiterated that "the overall problem with your proposal [was] a lack of specifics which can be evaluated"; the agency warned that even after Mainstream's response to the written items for discussions, its proposal contained "very significant

omissions" and that "many significant portions do not contain sufficient information for the Government to perform an adequate evaluation." Likewise, Mainstream acknowledges that in the ensuing oral discussion, it was advised that "we would need to address each IFD [item for discussion] to the best of our ability to maintain a chance of award." Notwithstanding the Army's warnings, however, Mainstream submitted a BAFO which Mainstream itself stated left its proposal "essentially unchanged."

Given that the Army considered Mainstream's proposal acceptable and kept Mainstream fully advised during the procurement process as to the nature and extensiveness of its proposal's deficiencies, it was reasonable to retain Mainstream's proposal in the competitive range. Mainstream was in a position to determine whether it was feasible, in a business sense, to continue pursuing the award. The protester chose to continue by participating in discussions and then preparing a BAFO not purporting to correct the deficiencies noted by the agency, but, rather, acknowledging that its proposal was "essentially unchanged." It thus was not the Army's actions, but Mainstream's disregarding of the information furnished by the Army that led the firm to expend what it believes were unwarranted additional resources.

The protest is denied.


for James F. Hinchman
General Counsel